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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/579,664	05/18/2006	Juergen Veit	3632	4804
7590 Striker Striker & Stenby 103 East Neck Road Huntington, NY 11743				
EXAMINER				
BINDA, GREGORY JOHN				
ART UNIT		PAPER NUMBER		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/579,664

Applicant(s)

VEIT ET AL.

Examiner

Greg Binda

Art Unit

3679

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 December 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14-17, 19-21 and 23-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 14-17, 19-21 and 23-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 December 2008 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on December 17, 2008 has been entered.

Drawings

3. The replacement drawings filed December 17, 2008 are objected to because:
 - a. The drawings fail to show the snap ring 22. Instead the numeral 22 indicates what appears to be a groove in the element 20.
 - b. The drawings fail to show the snap ring 21. Instead the numeral 21 indicates what appears to be a side of the element 19.
 - c. In Fig. 1 the reference numeral 10 fails to indicate a detent disk. Instead it indicates a side of the element 18.
 - d. Reference numeral 15 indicates detent cams in Figs. 2 & 3 and reused to identify an specified feature in Fig. 4.
 - e. Reference numeral 25 appears in Fig. 3, but is not mentioned in the specification.

- f. Reference numeral 115 appears in Fig. 4, but is not mentioned in the specification.
 - g. The drawings fail to show the detent disk having a uniform thickness as recited in claims 14 & 20. The detent disk 10 is shown having one thickness in the area of detent cams 15 and another thickness in the areas without the cams.
 - h. The claims fail to show an overload coupling as recited in claims 20+. Instead Fig. 1 simply shows a spring 23 disposed between two stationary elements 18 & 19.
 - i. The drawings fail to show the “detent cams overlapping each other in an axial direction” as recited in claim 20.
 - j. The drawings fail to show the “a root circle of a spur gear” as recited in claim 24.
4. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will

be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

5. The disclosure is objected to because Fig. 4 is not mentioned in the brief description of the drawings and the detailed description of the invention.

Claim Objections

6. The claims are objected to as failing to comply with 37 CFR 1.75(i) because elements of the claims are not separated by line indentation.

7. Claims 15 & 16 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim.

8. Claim 25 is objected to under 37 CFR 1.75 as being a substantial duplicate of claim 20.

Claim Rejections - 35 USC § 112

9. Claims 20, 21 & 23-25 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 20, line 10 recites the limitation, "both [detent cams and recesses] for

accommodating rolling elements”. There is no support in the application as originally filed for detent cams that accommodate rolling elements.

10. Claims 14-17, 19-21 & 23-25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 14 & 20 recite the limitation, “said detent disk body having a substantially uniform wall thickness”. Figs. 2-4 clearly show the thickness of the detent disk 10 varies. The disk 10 is thicker at cams 15 than it is where there are no cams.

Claim Rejections - 35 USC § 102

11. Claims 14-17, 19-21 & 23-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Richardson, US 2,561,136. Figs. 1-3 show a machine tool, comprising an overload coupling including a detent disk 16 configured for interrupting transmission of torque from a drive unit 10 to a tool (see “pickers, harvesters and mowers” in col. 1, line 9), the detent disk including a detent disk body having a substantial uniform wall thickness and an inner circumference; and at least one driving device 17 for driving in a rotary manner and provided on the inner circumference, the driving device being configured as a driving pocket 17. Figs. 1-5 show the detent disk 16 body has a front face (see Fig. 3), further comprising detent cams 21 and recesses 22.

12. Claims 14-17, 19-21 & 23-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Nagy et al, US 2,744,396. Figs. 1-6 show a machine tool, comprising an overload coupling

including a detent disk 2 configured for interrupting transmission of torque from a drive unit 1 to a tool, the detent disk including a detent disk body having a substantial uniform wall thickness and an inner circumference 4; and at least one driving device 11 for driving in a rotary manner and provided on the inner circumference, the driving device being configured as a driving pocket 11. Figs. 1-6 show the detent disk 2 body has a front face 7, further comprising recesses 8.

13. Claims 14-17, 19-21 & 23-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Paul, US 2,291,407. Figs. 1-3 show a machine tool, comprising an overload coupling including a detent disk 13 configured for interrupting transmission of torque from a drive unit 10 to a tool, the detent disk including a detent disk body having a substantial uniform wall thickness and an inner circumference 16; and at least one driving device 23 for driving in a rotary manner and provided on the inner circumference, the driving device being configured as a driving pocket 23. Figs. 1-3 show the detent disk 13 body has a front face (page 1, col. 2, line 57), further comprising detent cams 21.

14. Claims 14-17, 19-21 & 23-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Levedahl, US 1,757,125. Figs. 1 & 2 show a machine tool, comprising an overload coupling including a detent disk 4 configured for interrupting transmission of torque from a drive unit 1 to a tool (page 2, line 42), the detent disk including a detent disk body having a substantial uniform wall thickness and an inner circumference; and at least one driving device for driving in a rotary manner and provided on the inner circumference, the driving device being configured as a

driving pocket (see in Fig. 1 the pocket accommodating the screw 6). Figs. 1 & 2 show the detent disk 4 body has a front face , further comprising detent cams 19.

Response to Arguments

15. Applicant's arguments filed December 17, 2008 have considered but they are not persuasive.

- a. Applicant argues that Figs. 2 & 3 show the disk body 10 has uniform material wall thickness even while it has detent cams located on its surface. However, Figs. 2 & 3 show the disk body 10 is thicker at the cams 15 than it is anywhere else.
- b. Applicant argues that the claims are not indefinite because the thickness of the detent disk 10 is in fact uniform. This is so applicant argues because the thickness of the disk is measured without taking into account the cams 15 or recesses. The argument is nonsensical. The cams and recesses are integral features of the disk. The true thickness of the disk necessarily includes those features when it is measured at the portions of the disk where those features are present.
- c. Applicant argues the detent disk in each of the prior art references noted above lacks a uniform wall thickness because each includes cams and/or recesses. However, if the detent disk of the instant invention can include cams and/or recesses and still be considered to have uniform thickness, then a detent disk with cams and/or recesses in the prior art can be considered to have uniform thickness too.
- d. Applicant argues that the detent disk in each of the prior art references noted above fails to read on the claims because it is not disclosed as being produced by powder

metal metallurgy. However, the patentability of a product does not depend on its method of production. When the product in the product-by-process claim is the same as a product of the prior art, the claim is unpatentable. *In re Thorpe*, 777 F.2d 695, 698, 227 USPQ 964, 966 (Fed. Cir. 1985). See also MPEP § 2113.

Conclusion

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Greg Binda whose telephone number is (571) 272-7077. The examiner can normally be reached on M-F 9:30 am to 7:00 pm with alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (571) 272-7087. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Greg Binda/
Primary Examiner
Art Unit 3679

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